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The U.S. Nuclear Regulatory Commission Program With State and Local Governments and Indian Tribes

U.S. Nuclear Regulatory Commission

Office of Governmental and Public Affairs

S. Droggitis, Editor

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The U.S. Nuclear Regulatory Commission Program With State and Local Governments and Indian Tribes

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S. Droggitis, Editor

State, Local and Indian Tribe Programs
Office of Governmental and Public Affairs
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Washington, DC 20555

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ABSTRACT

The April 12, 1987 reorganization of the Nuclear Regulatory Commission created State, Local and Indian Tribe Programs (SLITP) within the Office of Governmental and Public Affairs. The creation of SLITP and the goals and objectives stated in the NRC Strategic Plan concerning State initiatives provided an opportunity to examine NRC's relations with State and local governments and Indian Tribes, and to refocus them, as appropriate. The result of this review is attached.

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EXECUTIVE SUMMARY

The NRC Strategic Plan states in Section 10.2.1, "State Initiatives", that:

"It is assumed that State and local governments and agencies and Indian Tribes will become increasingly interested in the regulation and oversight of NRC-regulated activities (e.g., emergency planning, prudence reviews, and transportation). Recognizing that the NRC and these governments and agencies share a common interest in protecting the public health and safety, they should work together toward this end. Thus, the goal for the NRC in this regard is to:

> Promote a coordinated and effective intergovernmental approach to nuclear safety.

By pursuing the following strategies, this goal can be achieved:

- Initiate a program to increase cooperation and communication between NRC and State and local governments and agencies, and Indian Tribes to promote increased awareness of activities and initiatives relative to nuclear safety.

- Take timely action to implement NRC's regulatory authority when NRC judges that an initiative being exercised by a State or local government agency is counter to safety or preempts Federal authority."

State, Local and Indian Tribe Programs has reviewed the policies and programs of the former Office of State Programs in view of the NRC Strategic Plan. The objectives were to: arrive at a common understanding of what State activities are of interest to the NRC and vice-versa; analyze how NRC implements its programs with States; identify current and emerging issues; and define objectives, and draw conclusions regarding an effective State, Local and Indian Tribe Program.

The attached report, prepared by SLITP, is the result of that examination. The report discusses NRC's constituencies and the various roles those constituencies have in helping to assure safety; the NRC training program for the States; and communications between NRC and State and local governments, Indian Tribes and other Federal agencies. In summary, this report describes all activities now being performed by the staff in Headquarters and the Regions.

Congress enacted legislation that changed the process for siting the high-level radioactive waste repository. The Nuclear Waste Policy Amendments Act of 1987, signed by the President on December 22, 1987, directs the Department of Energy to characterize the Yucca Mountain site in the State of Nevada and to terminate site-specific activities for the Hanford site in the State of Washington and the Deaf Smith County site in the State of Texas. This report was completed prior to the enactment of the Amendments Act and, thus, does not include consideration or a discussion of how that Act affects NRC interaction with States and Indian Tribes.

The major conclusions and initiatives drawn by SLITP staff from the report are as follows:

- Conclusion

  There are currently 29 Agreement States. This program is an excellent example of successful Federal-State partnership where there are technical, administrative and resource benefits.

- Initiative

  Encourage additional States to become Agreement States.

- Conclusion

  Training of State personnel fulfills basic needs for maintaining competent radiation control programs as authorized by Section 274 of the Atomic Energy Act of 1954, as amended.

- Initiative

  Training should be supported and improved to assure continuing program effectiveness as State regulated activities grow and personnel turnover occurs.

- Conclusion

  Various elements of the NRC regulatory program impact States. States have an interest in being involved in the development of NRC policies, regulations and technical positions.

- Initiative

  SLITP, in consultation with other NRC offices, will identify appropriate NRC initiatives where States could participate and make arrangements for State involvement. For Agreement States this may include a collaborative approach to developing regulations and regulatory guides pertaining to materials the States regulate pursuant to a Section 274b agreement.

- Conclusion

  The Agreement State program would benefit by having State personnel participate in NRC review of Agreement State radiation control programs. This initiative was discussed at the all Agreement State meeting and the Agreement States endorsed the concept.

- Initiatives

  Initiated a trial program during the review of the Nebraska program where the Arkansas Program Director participated

  Continue a trial program of having Agreement State personnel participate in a few Agreement State program reviews.

- Conclusion

  NRC has viable constituencies in the Conference of Radiation Control Program Directors and the Governor-appointed State Liaison Officers.

- Initiative

  Encourage greater participation in these activities to assure adequate communication on significant matters.

- Conclusion

  There are a number of national organizations representing State and local governments and Indian Tribes that have an interest in nuclear safety issues. The positions taken by these national organizations on nuclear safety matters influence Federal, State and local governments and Indian Tribes' policies and programs.

- Initiative

  Enhance communication with national organizations of State and local governments and Indian Tribes to promote increased awareness and understanding of activities and initiatives relative to nuclear safety.

The observations and conclusions set forth in this report represent the views of the Office of Governmental and Public Affairs on the appropriate SLITP activities needed for effective relations with States, local governments and Indian Tribes.

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I. BACKGROUND

State, Local and Indian Tribe Programs was created by the April 12, 1987 Reorganization of the Nuclear Regulatory Commission with a mission to achieve a more proactive relationship with State and local governments and Indian Tribes. A comprehensive review was necessary to better define and implement this mission.

NRC is in partnership with the States in the protection of public health and safety and the environment from radiological hazards. Key components of this partnership are the State radiation control program directors. Their national organization, which NRC actively supports, is the Conference of Radiation Control Program Directors. (Its history, organization and NRC's interaction with it are described in Appendix A to this paper.)

The CRCPD held its annual meeting in Boise, Idaho from May 18 to 21, 1987 and it was timely for the staff to use this opportunity to hold a "counterpart" meeting. On Tuesday, May 19, the NRC's five Regional State Liaison Officers (RSLOs), six Regional State Agreements Representatives (RSARs), Harold Denton, Director, Office of Governmental and Public Affairs, Carl Kammerer, Director of State, Local and Indian Tribe Programs, and the members of the SLITP staff (some present and others by telephone conference call) met to discuss the objectives of the new SLITP office. The meeting focused on how our current relationship with the States, local governments, and Indian Tribes might be enhanced to achieve a more proactive relationship with these constituents.

The principal objectives of this working session were to: review the policies and programs of the former Office of State Programs; discuss the goals in the draft NRC Strategic Plan and develop a working definition of the terms "Outreach" and "Proactive"; arrive at a common understanding of what State activities are of interest to the NRC and vice-versa; analyze how NRC implements its programs with States; identify current and emerging issues; and define objectives, draw conclusions regarding an effective State, Local and Indian Tribe Program that is responsive to the Commission's needs. The following describes the results of this meeting and discusses the conclusions and initiatives for achieving a more proactive relationship with States, Local Governments and Indian Tribes.

II. PROGRAM

A. Definitions

NRC's Strategic Plan calls for the Agency to assume a more proactive role, including outreach, to increase cooperation and communication between NRC and State and local governments and agencies and Indian Tribe representatives to promote increased awareness and understanding of activities and initiatives relative to nuclear safety.

In our discussions, we defined "proactive" as (1) the early internal identification of and sensitivity to major issues concerning State and

local governments and agencies and Indian Tribe representatives made possible through good information gathering and networking on the part of the staff and (2) the initiation of developing and seeking Commission approval of appropriate policy and programs to address relevant issues.

We defined "outreach" as the way we communicate NRC's policies and programs to our constituency. Outreach involves active participation--frequently in one-on-one discussions--with our constituencies to address concerns early, before they become significant issues.

We realized the importance of a proactive role, and adopted such a role by taking the initiative to inform those constituencies who are interested in, affected by, or involved with the regulation of radioactive materials and nuclear power. We also recognized the importance of our liaison role, in bringing together the Agency's technical experts and outside organizations so that relevant information is shared promptly, accurately, and completely. We intend to work even more closely with NRC's Program Offices and Regional Offices, State and local governments and agencies, Indian Tribe representatives, and other Federal agencies and organizations in an effort to fulfill the Agency's mission as stated in the Strategic Plan.

B. Constituencies

Our constituencies are wide and varied. They offer ample opportunity for interaction on many issues. To ensure that our relationships with these constituencies are viable, mutual trust and professional respect must exist so that issues can be discussed openly. We view our constituencies as partners in protecting the public health and safety, the environment and the national security. The following is a discussion of the constituencies with whom we interact.

o Agreement States

Section 274 of the Atomic Energy Act, enacted by the Congress in 1959, recognized the States' interest in atomic energy activities. It clarified the responsibilities of the States and NRC's predecessor, the Atomic Energy Commission and provided a mechanism by which the Atomic Energy Commission could relinquish, and the States could assume, a part of the Atomic Energy Commission's regulatory authority. Under Section 274, the Atomic Energy Commission was permitted to relinquish to the States, on a State-by-State basis, certain of its authority to regulate the use of reactor-produced isotopes, the source materials uranium and thorium, small quantities of special nuclear materials, uranium mill tailings, and low-level radioactive waste disposal. The States that have agreements with the NRC allowing them to regulate these activities are called Agreement States; the materials collectively are referred to as Agreement Materials. At present there are 29 Agreement States administering a total of approximately 15,000 licenses. Figure 1 is a map showing the present Agreement States.

Before the Commission is permitted to relinquish regulatory authority to a State, the Governor must certify that the State has a regulatory program that is adequate to protect the public health and safety. The Commission must find that the State's program is adequate from a health

AGREEMENT STATE PROGRAM
(As of August 1987)

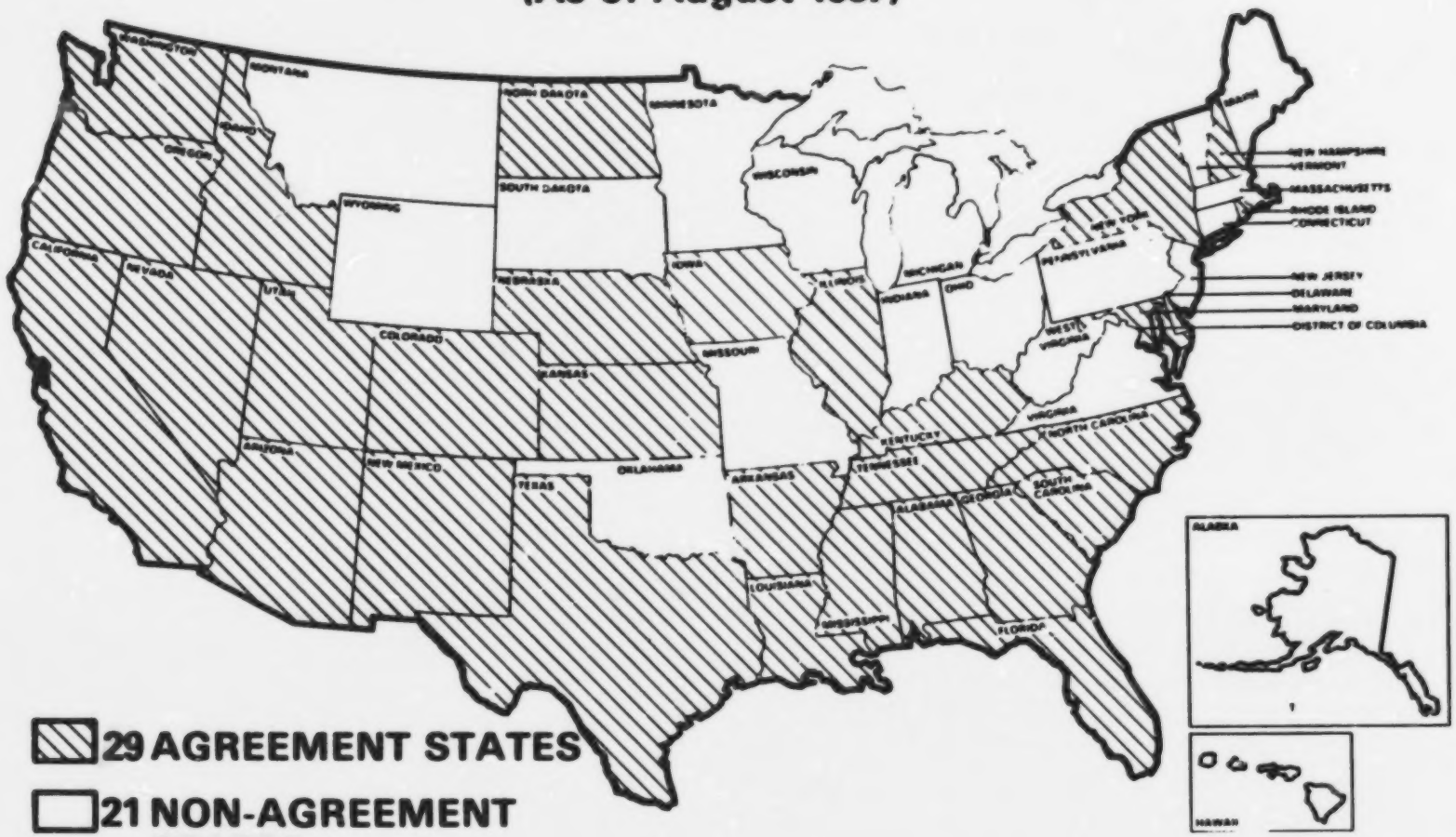

Figure 1

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and safety standpoint and that is compatible with the Commission's program. SLITP works closely with each Agreement State to ensure that the State's program meets these requirements and that the State has enough technically qualified persons to effectively implement the program.

The NRC staff reviews Agreement State radiation control programs periodically (every 12 to 24 months); we are implementing a new initiative of having Agreement State personnel participate in these reviews. We believe this increased interaction will be beneficial to both the NRC and the Agreement States.

Communication with Agreement States is continuous, both at NRC headquarters and at regional levels, through telephone, meetings and correspondence. In addition, SLITP sponsors an annual all-Agreement State meeting with the program directors to address issues of mutual concern. SLITP also provides training and technical assistance to help maintain high quality programs pursuant to Section 274 of the Atomic Energy Act, as amended.

The NRC Agreement State Program has produced an excellent working relationship between NRC and the States. The program has often been cited as an outstanding example of Federal-State partnership in dealing with mutual interests. In 1983, the National Governors' Association published a report that represented the first comprehensive, independent examination of the Agreement State Program since its inception 25 years ago. The report was prepared by NGA staff, assisted by many persons knowledgeable in the field of radiation protection, including the radiation control program directors of all 50 states; NGA's Subcommittee on Nuclear Power, augmented by four State radiation protection officials; and two advisory committees composed of representatives of constituencies subject to or affected by State or NRC regulation. The conclusions of the report represented a broad consensus of the radiation protection community regarding such topics as funding, training, personnel, and regulatory jurisdiction within the Agreement State Program. The report stated: "The Agreement State Program is one of the most successful State/Federal partnerships yet established in terms of 1) the flexibility provided States in assuming regulatory responsibility, 2) successful State performance of regulatory duties and 3) consultation with States in the preparation of new regulations." The principles of cooperation and communication developed for the Agreement State Program serve as a model for the overall State and Local Government and Indian Tribe Program.

Interest in the Agreement State Program is continually growing. At the present time, several States are having discussions with the NRC on becoming Agreement States. The NRC should encourage States to join the program. This is an element of NRC's Strategic Plan. This recommendation was also made by the Materials Safety Regulation Review Study Group, whose report was published in the Federal Register on December 17, 1986 (51 FR 45122).

o State Liaison Officers' Program

The State Liaison Officers are Governor-appointed State officials, whose role is to provide a communication channel between the State and the NRC.

The SLO is intended to be the principal person in the State to keep the Governor informed of nuclear regulatory or emergency matters of interest to the Governor, to keep other State officials informed of such matters, and to respond to NRC inquiries.

The Commission established the SLO program in 1976 as a result of a suggestion made at NRC-sponsored Power Plant Siting Conferences held in April 1975 and June 1976. The suggestion was made by a number of State organizations such as the National Governors' Association and the Western and Southern Interstate Nuclear Boards. The suggestion came about as a result of a need to establish a working relationship in siting and environmental matters for which the NRC and the States share responsibilities. The scope of the program has since expanded to include such areas as low-level and high-level waste programs, transportation, emergency preparedness, and decommissioning.

The SLO Program is an important mechanism for responding to President Reagan's March 20, 1981 memorandum on full consultation with State and local governments. The memorandum provides that before a Federal agency considers any major policy, budget or reorganization proposal that has significant State or local impact, it must ensure that affected State and local officials are consulted and that their views are given proper weight and consideration. NRC is the only Federal agency that interfaces with specific Governor-appointed State Liaison Officers nationwide.

All Governors participate in the program. There are 51 SLOs, one from each of the 50 States and from the Commonwealth of Puerto Rico. These officials represent a wide spectrum of State government: including energy advisors to the Governor, members of State Public Utility Commissions, Radiation Control Program Directors, or State Emergency Management Directors.

SLO meetings in each of the five NRC Regions are held on a 3-year cycle with SLOs, the Regional Administrator and NRC Headquarters and Regional staff members participating. Once every 3 years, a national meeting of SLOs is held at NRC Headquarters, with the Chairman and senior NRC officials participating. The most recent national SLO meeting was held in September, 1987 in Bethesda, Maryland. The meeting featured presentations by invited State speakers and NRC officials, with panel discussions which encouraged an open exchange for all attendees. At each of these meetings, a broad range of issues is discussed. These allow both the NRC and the States to gain valuable perspectives into each other's programs, policies and needs. The SLOs are asked to provide assistance when NRC issues new policies and when rule changes are being considered. Commissioners and other senior NRC officials often meet with the SLOs when they are visiting States and/or Governors.

The effectiveness of the SLO program varies from State to State, depending on the SLOs relationship with the Governor and other State officials; the degree to which the SLO is included in sensitive State issues; the SLOs assertiveness; and the SLOs interest in working with the NRC. As a result,

the SLO program is stronger in some States than in others. Nevertheless, the SLOs are an important tie to the Executive Branch of State government. Collectively, they may not represent a unified voice; however, individually they are meaningful intermediaries in our outreach program. We intend to increase our communication with them.

o Conference of Radiation Control Program Directors

The Conference of Radiation Control Program Directors (1) promotes all aspects and phases of radiological health and (2) encourages and promotes cooperative enforcement programs with Federal agencies and between related enforcement agencies within each State. The Conference encourages the interchange of experience among radiation control programs and collects and makes accessible to its membership information to help them properly fulfill their duties. The Conference is instrumental in promoting and fostering uniformity of radiation control laws and regulations, and it exercises leadership with radiation control professionals and consumers in radiation control development and action.

Through its task forces, the Conference develops suggested regulations, technical positions and radiation standards. The NRC is an active participant in the Conference, and, along with the Environmental Protection Agency, the Food and Drug Administration, the Department of Energy, the National Bureau of Standards, and the Federal Emergency Management Agency, provides financial and technical support to the Conference. Appendix A to this report provides additional details on the Conference.

o Other Organizations

The National Governors' Association, founded in 1908 as the National Governors' Conference, is the instrument through which the Governors of the 50 States collectively influence the development and implementation of national policy and apply creative leadership to State problems. As mentioned above, the NGA conducted the first comprehensive, independent study of the Agreement State Program. We attend annual NGA meetings and keep informed of the activities of its committees formed to develop policy positions on nuclear issues.

At its February 1987 meeting in Washington, D.C., the NGA established a Nuclear Safety Task Force to examine the relationship among the States, the Federal Government, and industry in ensuring the safe design and operation of nuclear power units and off-site emergency response. The Task Force spent considerable time debating initial statements and finally settled on consensus policy recommendations for consideration at the NGA annual meeting on July 28, 1987 in Traverse City, Michigan. The NGA adopted the Task Force recommendations listed below and the Task Force was subsequently discharged of its duties.

Nuclear Power Plant Design and Operation Recommendations
Adopted By The National Governors' Association

1. The Governors recognize the Nuclear Regulatory Commission as a single agency responsible for approving the design of nuclear power plants and issuing necessary construction and operating licenses;

2. The NRC should have the responsibility of providing information on nuclear power plant systems and operations upon request of the Governor, by responding in writing within 30 days of such a request;

3. In the future, emergency plans should be approved by the NRC before it issues the construction permit for any new nuclear power plant;

4. In consultation with states, the NRC should develop objective criteria for the review and approval of offsite emergency response plans;

5. NRC should establish a mechanism to provide for timely response (within 60 days or less) to a Governor's recommendations for changes in standards relative to the safe operation of nuclear power plants within his or her state.

On October 27, 1987, the Commission provided the NGA with its comments on the recommendations (see Appendix B).

The National Conference of State Legislatures represents State legislatures and their staffs on national issues. NRC is working with NCSL to communicate with State legislators. Some joint NRC/NCSL projects have included: (1) a seminar in Washington, D.C. at which State legislators discussed such issues as low-level waste compacts, plant aging/decommissioning and transportation; (2) a trip to the Barnwell LLW site where NRC presented information on low-level waste; (3) and an audio-conference that gave NCSL members an effective and inexpensive way of discussing low-level waste issues and options via telephone with the NRC staff. In addition, we regularly attend NCSL meetings and are kept informed through them of legislative actions that involve nuclear issues. This interaction has been a most valuable asset in opening a dialogue with State legislators.

The Southern States Energy Board was established as the Southern Interstate Nuclear Board by a compact between the States and consented to by Congress in 1962. Since its formation, the Board's role has shifted to that of principal advisor on energy matters to the 16 southeastern States and Puerto Rico. NRC involvement with SSEB is limited. However, SSEB has done work under contract to the NRC Office of Research. Its Presidentially appointed Federal Representative periodically contacts the Commissioners and staff.

The Western Interstate Energy Board, the administrative unit for the Western Interstate Nuclear Compact, is an agency of western State governments. The purpose of the Board is to foster cooperative efforts in the energy field among the member States and the Federal government. Our involvement with this Board is limited. WIEB has performed studies for the Department of Energy and NRC and has been active in high-level waste, low-level waste and transportation issues.

President Reagan encouraged Federal agencies to interact with Indian Tribes on a government-to-government basis as stated in his 1983 Indian Policy Statement. In this regard, NRC interacts primarily with two organizations: the National Congress of American Indians and the Council of Energy Resource Tribes. NCAI was founded in 1944 as the first national intertribal organization serving American Indians and Alaska native

governments and people. It develops and analyzes public policies through its elaborate committee system, disseminating information and representing its membership before Congress, administrative bodies and the general public. CERT was established in 1975 to provide needed expertise on the many energy projects impacting Indian lands. We regularly attend and participate in the meetings of NCAI's National Indian Nuclear Waste Policy Committee (which is funded by DOE), and we have had similar interactions with CERT, recently exchanging and providing information on NRC/DOE high level waste activities and organizations, and receiving information from them. Our involvement has increased with these organizations.

The National Association of Towns and Townships represents some 13,000 predominately small communities across the country (primarily through State town associations to which the small communities belong). The National Association of Counties represents county government concerns, while the U.S. Conference of Mayors is an organization of city governments. The National League of Cities is concerned with improving the quality of life for the people who populate our cities. NRC's involvement with these organizations has principally focused on the transportation of radioactive materials.

The National Association of Attorneys General provides technical and research assistance to the States' Offices of Attorneys General. The Council of State Governments is a non-profit, State-supported and directed service organization of all 50 States and the U.S. Territories and jurisdictions. Our involvement with these organizations has been limited to attending their meetings and having their representative attend transportation workshops.

The National Association of Regulatory Utility Commissioners (NARUC) is a quasi-governmental nonprofit organization founded in 1889. Within its membership are the governmental agencies of the 50 states and of the District of Columbia, Puerto Rico, and the Virgin Islands engaged in the regulation of utilities and carriers. NARUC's chief objective is to serve the consumer interest by seeking to improve the quality and effectiveness of public regulation in America. NARUC attempts to have each Federal regulatory agency designate a member. NRC's current member is Chairman Zech, who also serves on NARUC's Executive Committee.

o Summary

The NRC has been and can continue to be in an excellent position to know and understand the pertinent concerns of the States, local governments, and the Indian Tribes because of our interactions with our various constituencies. However, with finite resources, we cannot have active relationships with all possible organizations. Thus, we have focused our efforts on the Agreement State Program, the Conference of Radiation Control Program Directors, and the State Liaison Officers Program. We consider these to be our viable constituencies.

To better fulfill our responsibilities we are assessing the issues being addressed by both national and regional organizations and are setting our priorities for addressing these issues. We are also examining all our constituencies to assess ways we can increase our effectiveness. Our proactive and outreach programs must be focused on those constituencies where we can be the most effective.

C. The Roles of States, Local Governments and Indian Tribes

The States, local governments, and Indian Tribes are playing increasingly important roles in a growing number of nuclear matters. Major roles that are based on Federal statutory authority are the Agreement States Program, low-level waste programs and compacts, high-level waste programs, and some aspects of transportation. Other roles include those in off-site emergency preparedness and response and in security. In addition, some States are becoming involved in nuclear power plant inspections, economic performance incentives, and land use planning. The Agreement State Program is discussed in Section II.B above, the other State and local government and Indian Tribe roles are discussed in the following paragraphs.

o Low-Level Waste and Compacts

The Low-Level Radioactive Waste Policy Amendments Act of 1985 is an important step toward the development of new disposal capacity for low-level radioactive waste. The Act includes three major provisions. The first makes it more likely that the three operating disposal facilities in South Carolina, Washington, and Nevada will remain in operation until the end of 1992. The second establishes a system of incentives and penalties to promote steady progress by the States and compacts toward development of new disposal capacity. The third assigns responsibilities for LLW disposal to the States and the Federal government.

The Act also directs NRC to provide additional guidance to the States to ensure that they have enough regulatory information so they can meet the milestones established in the Act. Some of the information States need includes guidance on waste disposal methods that can be used as an alternative to shallow land burial, on licensing, and on determining what waste is below regulatory concern. In addition, NRC is working with the Environmental Protection Agency to provide guidance to the States for the disposal of mixed waste (LLW mixed with chemically hazardous waste). (This is an issue of concern to both NRC and the States that was not resolved by the Act.) In addition, the NRC assists the States in the review of compacts and of enabling legislation, in training and in other technical areas.

The Act requires both NRC and the States to carry out their respective responsibilities under a very restricted schedule that puts pressure on NRC to provide timely assistance.

SLITP provides a central point of contact for the States and compacts on issues involving the management and disposal of LLW. Other NRC offices provide additional technical assistance, as required. The RSLOs monitor State and compact actions in developing new disposal capacity and provide information and assistance as appropriate. We also provide assistance to Agreement States or States seeking Agreement State status on staffing capabilities, program organization, analytical methods for predicting disposal site performance, environmental monitoring, and review and comment on license applications and environmental reports.

The Low-Level Radioactive Waste Forum is an important State organization on low-level waste. It is an association of representatives of States and compacts established to facilitate State and compact implementation of the Act and to promote the objectives of the LLW regional compacts. The Forum, which is funded by DOE, gives States and regions the opportunity to share information with one another and to exchange views with Federal officials. The NRC staff provides the Forum and its participants with information on NRC LLW regulatory activities. The staff also participates in quarterly Forum meetings by providing presentations on various NRC activities and discussing items of interest with Forum participants.

o High-Level Waste

The States and Indian Tribes have an important role under the Nuclear Waste Policy Act of 1982 for the siting of high-level radioactive waste repositories and a monitored retrievable storage facility. A prospective host State or affected Indian Tribe has a right to extensive consultation, funding for independent investigations, and a final right to object to the establishment of a site within its boundaries. This objection can only be overridden by a majority vote of both houses of Congress. The Office of Nuclear Material Safety and Safeguards has been designated the lead NRC Office for NWPA implementation. SLITP has reached an agreement with NMSS to carry out a greater role for liaison with affected States and Indian Tribes on high-level waste and related matters.

An essential ingredient to success of both NRC's regulatory role and the DOE's development mission is the free and open exchange of information. It was in this spirit that NRC arranged for States and Tribes to participate in NRC's internal "readiness review" before NRC formally submitted comments on DOE's draft HLW Environmental Assessments. Also in this spirit, NMSS staff met with potentially affected States and Tribes to ensure that NRC's review schedule includes time for consultation with them on each decision that NRC must make in the Project Decision Schedule under the NWPA.

The former Office of State Programs participated in the process of amending the NRC regulations (10 CFR Part 60) applicable to the disposal of HLW. This process included attending a number of meetings on development of the rule changes, reviewing and commenting on various drafts of the proposed rule and reviewing and analyzing State and Indian Tribe comments on the proposed rule. These amendments, which were effective on August 29, 1986, deal with procedural aspects of site characterization and the participation of States and Indian Tribes. For the most part, the amendments were made to reflect provisions of the NWPA. These amendments ensure that the Commission will be fully aware of State, Tribal, and public views before, during, and after the site characterization plan review. The States and affected Indian Tribes will be routinely informed of all material made available to the NRC and NRC's comments on this material. The States and Tribes will be invited to participate in NRC/DOE technical meetings. The NRC staff will continue to have discussions with State and affected Indian Tribal representatives and will respond to their written and oral requests. The NRC will also follow closely the NWPA-mandated opportunities for State, Tribal, and public interaction with DOE.

The former Office of State Programs also reviewed and provided comments to the staff proposed rule changes to 10 CFR 72 concerning the monitored retrievable storage facility. The comments focused on the need to provide affected States and Indian Tribes with the same participation and consultation rights for an MRS as is provided for a high-level waste repository, as mandated by the NWPA. This proposed rule sets forth the procedures for meeting requirements for independent storage of spent nuclear fuel and high-level radioactive waste if Congress approves of construction of these facilities pursuant to NWPA. It also sets forth procedures for meeting the NWPA requirement that the Commission provide timely and complete information to affected State governments and Indian Tribes regarding determinations or plans made with respect to siting, development, design, licensing, construction, operation, regulation, or decommissioning of an MRS.

o Transportation

State, local and Indian Tribe interest in the safe transportation of radioactive materials, particularly spent fuel, is keen. Pursuant to Public Law 96-295, NRC requires licensees to notify a Governor's designee when spent fuel and certain wastes are to be shipped through that Governor's State. The States are concerned with the overall system for transportation of hazardous materials. The States (and local authorities) have the primary responsibility for responding to accidents involving radioactive materials and in taking actions necessary to protect public health and safety. NRC's role, as described in a Commission policy statement (49 FR 12335), is basically to ensure that the State is notified of spent fuel shipments or accidents and to offer technical assistance to the State. SLITP annually publishes an updated list of State contacts to be notified by licensees as required by 10 CFR Parts 71 and 73.

The Indians have certain authority and responsibilities regarding transportation of radioactive material on their lands; however, the interface between the Tribes and the States in this regard could be clarified. The States and Tribes, under certain conditions, are permitted to specify alternative routes to those generally prescribed by the Department of Transportation, under the DOT routing rules. Some Indian Tribes have expressed an interest in receiving advanced notification of spent fuel and high-level radioactive waste shipments through their lands.

The Congressional Office of Technology Assessment has conducted a comprehensive study on the transportation of hazardous materials including spent fuel. Among its conclusions, OTA stated that NRC performance standards yield cask design specifications that provide a level of public protection higher than that provided for any other hazardous materials shipping activity. OTA suggested that overall safety could be improved by improved quality assurance in cask manufacture, maintenance activities, driver training, and inspection. OTA recommended that Federal, State, and local governments develop a national strategy to improve training and funding for hazardous materials transportation enforcement and emergency response.

State, Indian, and local government representatives have a number of concerns regarding spent fuel transportation, both today and in the future, when a HLW repository and possibly an MRS facility are in place. These concerns include the following:

Packaging

These concerns relate to cask integrity under postulated accident conditions; performance testing versus actual testing; and DOE's use of casks that are not certified by NRC.

Inspections

Some States believe that there are not enough transportation inspections, especially for waste and spent fuel shipments.

Routing

Some States believe that they need the best source of information from the public and private sectors and Federal certification of the State or Tribal alternative route that is chosen. Some States believe that there should be a rail shipments routing rule, similar to the DOT highway routing rule, that would allow States to designate alternates.

Notifications

States and Indian Tribes are concerned that DOE is not required to provide prior notification of its spent nuclear fuel shipments.

Emergency Response Plans and Preparedness

Some States, Tribes and local governments believe both availability of training and funding for emergency response planning and preparedness are insufficient.

The NRC has a number of initiatives underway which address many of the concerns raised by States and Indian Tribes in the transportation area. For example, a study recently conducted by Lawrence Livermore National Laboratory for the NRC concluded that for certain broad classes of transportation accidents, spent fuel casks provide essentially complete protection against radiological hazards. The results of the study were presented to the National SLO meeting in September and a summary of the study has been provided to the SLOs and other State officials.

The NRC has recently contracted a study with Indiana University to provide a description of State and certain Indian Tribe emergency response training programs, response capabilities, and response plans as they apply to transportation accidents involving radioactive materials. The study is also to determine the nature and degree of change that has occurred as a result of attention focused on and funding in State radiological emergency response capabilities, training programs, and response plans since a previous Commission study conducted in 1978. One objective of this study is to determine what, if any, additional actions Federal

agencies could take to assist States and Indian Tribes in ensuring adequate protection of the health and safety of the public with regard to transportation accidents involving radioactive materials.

The NRC staff is also initiating a review to update NUREG-0170 "Final Environmental Statement on the Transportation of Radioactive Material by Air and other Modes," (December, 1977).

Regarding advance notification, the Department of Energy recently committed to provide States a 7-day prenotification of unclassified shipments of spent fuel and high level waste. The procedure adopted by DOE is virtually identical to the NRC requirement for advance notification.

Some States are taking a more active role in the transportation area. For example, the State of Illinois has instituted an inspection and escort program for spent nuclear fuel. Each spent fuel shipment traveling in Illinois is inspected by the State's Department of Nuclear Safety to assure that all applicable Federal and State radiation protection requirements are met. The Illinois State Police inspect and escort trucks carrying these shipments. The Illinois Commerce Commission inspects rail shipments.

o Emergency Preparedness and Response for Fixed Facilities

State and local governments play an important role in emergency planning and preparedness in support of commercial nuclear power stations. Appendix E of 10 CFR Part 50 establishes minimum requirements for both the 10-mile and 50-mile Emergency Preparedness Zones for the plume exposure and ingestion pathways, respectively. Furthermore, each plan is to include provisions for emergency preparedness exercises, which call for participation by appropriate State and local government agencies. The NRC staff interacts intensively with the States in connection with exercise of the reactor emergency plans. Additionally, twenty-seven large NRC materials and fuel cycle licensees have been required by Order to develop contingency plans (46 FR 12566). Licensees have made arrangements with local agencies (police, fire, ambulance, hospitals) to provide services in radiological emergencies and to participate in training drills.

o Security

State and local law enforcement agencies provide security resources for emergencies at licensed sites; they participate in security drills and in some cases provide training facilities for site guards.

o Nuclear Power Plant Inspections

Some State officials feel a strong need to better understand risks to public health and safety from incidents at nuclear power reactors and to assure that all reasonable steps are being taken to prevent an incident or otherwise reduce such risks. These feelings have grown since the accident at Three Mile Island, and they are often reinforced locally when problems at nuclear power plants are highly publicized. The accident at Chernobyl has and will continue to heighten these feelings. Moreover,

some State governments do not want to depend solely on NRC for information on reactor status. Thus, Governors and other State officials are seeking ways in which they can routinely be apprised of the current status of specific NRC-licensed facilities that have a potential for affecting the health and safety of their citizens.

A number of States have taken the initiative to more closely monitor, and in some cases become directly involved in, a number of nuclear issues. For example, the State of Oregon has had a State Resident Inspector authorized by State law at the Trojan Nuclear facility since 1980. Maine has recently adopted legislation to establish a Resident Inspector at Maine Yankee patterned after the program in Oregon. The Illinois legislature has authorized a Resident Inspector pilot program for fiscal year 1988 at one nuclear power plant site in the State. Other States have added nuclear engineers to their staffs with responsibilities for monitoring specific power plants. Illinois and Pennsylvania recently became the first States to execute a Memorandum of Understanding with the NRC to perform periodic inspections of the areas of low-level waste packaging and transport activities at NRC-licensed facilities, including reactors, operating within the State. A list of current MOUs with States is provided in Appendix C. Similar MOUs are being negotiated with several other States. Some States have indicated a desire to be present at NRC inspections, inspection exit meetings, and enforcement conferences and to participate in other regulatory activities involving reactors. Region I has concluded agreements in this regard with the States of Vermont and New Jersey through exchanges of correspondence.

The majority of States have boiler and pressure vessel laws that cover both the nuclear and non-nuclear components at a nuclear power plant. The States recognize NRC's regulatory authority over the nuclear portions of the plant, and therefore generally focus their attention on the non-nuclear components. The NRC mandates the use of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code for construction and inservice inspection of these components.

Recently, NRC has been negotiating a subagreement with the Illinois Department of Nuclear Safety seeking to ensure that (1) it implements an Illinois statute in accordance with the ASME Code requirements as adopted by NRC and (2) that its rules do not disrupt and are not inconsistent with the Federal scheme of regulation.

Under the Occupational Safety and Health Act of 1970, the States can have responsibility for inspections related to worker safety. At a nuclear power generating station, this responsibility covers the "balance of plant" where NRC regulatory authority is not explicit. In that portion of the station where NRC has regulatory authority, State responsibility is limited to the non-radiological aspects of worker safety. This issue came to a head in 1986 at the Surry plant in Virginia when a feedwater line ruptured, killing 4 and injuring 8 workers. To what degree States will exercise inspection authority is uncertain at this time.

o Economic Performance Incentives

An NRC staff survey indicates that economic performance incentives established by State public utility commissions are applicable to the operation or construction of about 41 nuclear power reactors owned by 27 investor-owned utilities in 16 States. Several additional States are considering nuclear plant economic incentives. Municipal utilities, State agencies, and other government-owned utilities are not generally regulated by the PUCs and, therefore, are not directly affected by these economic performance incentives.

Economic performance incentives (or "performance incentive plans") are mechanisms used by PUCs to measure a utility's efficiency level in operating or constructing generating plants and to financially reward or penalize the utility for performance above or below established levels. The objective of incentive plans is to encourage sustained improved performance. A number of different economic performance-based criteria are used to measure plant performance. These include capacity factor, availability factor, fuel costs, and construction costs. Some plans reward good economic performances, others penalize poor performance, while still others do both. The incentives are sometimes large, potentially involving many millions of dollars.

The purpose of performance incentives, of course, is to encourage reliable improved performance, but there is concern over the possible effects on safety of such incentives. The concern is that, in the interest of short-term economics, pressures may cause utilities to take short cuts, delay shutting down a reactor, or take some similar action in order to meet a deadline or to avoid a cost limitation or other penalty. Because of this concern, NRR has begun monitoring performance incentives applicable to nuclear plants.

Recently, New York proposed the use of the NRC Systematic Assessment of Licensee Performance index or NRC enforcement history as the basis for an incentive program. The Commission has concluded that it does not support such methods to arrive at financial awards and penalties.

o Land Use Planning

Localities and to a lesser extent States have a role in land use planning, including that around a fixed nuclear facility, such as a nuclear power generating station. Increases in the population density beyond those projected in a plant's Final Safety Analysis Report at the time the nuclear plant is licensed may be significant.

The State, in most instances, must be the landlord for a low-level radioactive waste disposal facility according to 10 CFR Part 61; therefore the States exercise power to determine where such a facility will be sited. Such exercising of State power may occur in 10 to 15 places around the country by 1993, which is the Congressional milestone date for the operation of disposal facilities pursuant to the Low-Level Radioactive Waste Policy Amendments Act of 1985.

Finally, States exercise a great deal of influence pursuant to the Federal Coastal Zone Management Program of the Department of Commerce in the coastal zone where fixed nuclear facilities may be sited.

o Conclusions

The States, local governments and Indian Tribes are taking on an ever increasing role in more and more aspects of nuclear-related issues. Many of the most important ones have been legislated by Congress and others have resulted from rulemaking. In other domains, such as power plant inspections and economic incentives, the States are becoming more active. In all of the subjects discussed above, there should be interaction with the States, local governments and Indian Tribes to better explain NRC's regulatory program and to enhance the level of communication and upgrade the flow of timely information.

D. Training for States

Section 274i. of the Atomic Energy Act authorizes the Commission, among other things, to provide training to the States "as the Commission deems appropriate." The legislative analysis of the bill which amended the Atomic Energy Act by adding Section 274 made clear the intent of this authority was to "assist the States to prepare for, and carry out, independent State radiation protection programs."* The Senate Report to S.2568 also commented on the authorization in Section 274i. to provide training to States. The report noted that cash grants are not provided by the Commission to pay for State regulatory programs and that Commission assistance to States, such as training, "take into account the additional expenses incurred by the State as the consequence of the State entering into an Agreement."** The State Agreements Program has provided training to State personnel through various programs for 25 years. Currently the State Agreements Program conducts comprehensive training programs for State personnel. This training consists of short-term courses in health physics, the safety aspects of radioactive materials usage, and the principles of regulation. From FY 1975 through FY 1986, more than 2,400 State and local radiation control program students have attended SLITP*** sponsored training courses. Training courses encompass both technical and management subjects and range in duration from 1½ days to 5 weeks.

A list of typical courses given each year is described in Table 1. Most of the courses integrate "hands-on" lab and field exercises, casework review and conventional classroom instructional techniques. Tests and homework assignments are also normally required. The courses utilize contractors as well as NRC and State experts to present the material. The courses are provided without charge to the States. The State governments pay the salaries of their employees who attend, and SLITP pays the travel and per diem of attendees. The training is provided to both Agreement and non-Agreement States. Because of the continuing budget constraints, priority is now given to applicants from Agreement States and those

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* Congressional Record, 86th Congress, 1st. session, May 19, 1959, p. 7525.

** U.S. Congress, Senate Report No. 870 (S.2568), 86th Congress, 1st Session, 1959.

***SLITP administers the training program for States. This function was performed by the Office of State Programs prior to the April 12, 1987 NRC reorganization.

Table 1

TYPICAL GPA/SLITP TRAINING COURSES
FOR STATE PERSONNEL

Subject	No Students	Frequency	Cutbacks
Inspection Procedures	25	2/year	2/, 4/, 5/
Licensing Orientation	20-25	1/year	
Health Physics	20	2/year	
Well Logging	20	1/year	
Radiological Engineering	20	1/year	
Transportation	20	1/year	
Special Topics	20	1/year	
Industrial Radiography	16	2/year	Reduced to 1/Year
Medical	20	2/year	Reduced to 1/year 3/4/
Radiochemistry	20	1/year	Deleted
Teletherapy Calibration	12	2/year	Deleted
Management	20	1/year	Deleted
Harvard Biological Effects of Radiation	5	1/year	Deleted
	331	18/year	9/year = 125 slots

1/ Excluding Mill Tailings and LLW.

2/ Some reduction in slots available to States have occurred to accommodate Navy, Air Force, and Army "super-broad" license representatives. These have ranged from two to four slots. In addition, in FY 1987 five NRC inspectors attended the course, leaving for FY 1987 only 18 slots for State students.

3/ The Navy has requested slots for the FY 1988 Medical course.

4/ There is no compensation for slots provided to the Armed Forces or NRC staff.

5/ The second presentation of this course is usually at a State site to train personnel from the host State and nearby States, thus conserving travel funds.

non-Agreement States actively seeking Agreement State status. It is therefore not surprising that there have been complaints from State program directors about applicants who could not be accepted for training. The training program had increased in both numbers of courses and students from FY 1975 to FY 1982. Twenty-one courses were presented to 286 students in FY 1982. In FY 1986, the training budget decreased by 22%*, and in FY 1987 the numbers of courses and students has decreased to 10 courses and an estimated 187 students (Table 2).

State personnel must be trained so State staffs can develop and maintain the expertise they need to perform State radiation control program functions. Personnel in States seeking Agreement status need training, and in Agreement States, both replacement personnel and persons hired to respond to program growth (increased numbers of licenses and more complex licenses) must be trained. New State employees typically have bachelors' degrees in engineering or science but little or no training nor experience in health physics. The NRC Policy Statement for review of Agreement State programs (52 FR 21132, June 4, 1987) contains guidelines for training that reference NRC-sponsored courses and recommend a training program "to maintain (an) appropriate level of staff technical competence in areas of changing technology." Although other training is available, as a practical matter, the NRC program is the sole source of this type of training for the States.

State training needs are a direct function of the number of Agreement State program inspections, license reviews, and staffing level. This, in turn, is a direct function of the number of Agreement State licenses. Since FY 1975, the number of Agreement State licenses has increased 45% (Figure 2). One way to measure the effectiveness of the training function is to consider the number of State students receiving training in proportion to the number of Agreement State licenses. This figure (per 100 Agreement State licenses) grew steadily from 1.2 in FY 1975 to peaks of 2.2 in FY 1982 and FY 1985, but dropped 45% to 1.2 in FY 1987, the same value as in FY 1975.

Another measure of the effectiveness of training is the scope of subjects covered by the training (Table 1). However, as Table 1 also shows, we are currently providing nine fewer courses per year, which represents 125 fewer training slots each year. Presently, for every 10 persons accepted for our courses, another 6 cannot be accepted because of a lack of space and money. (In some courses, the number of slots available to the States has been reduced to accommodate urgent needs of NRC, U.S. Navy, and U.S. Air Force personnel.)

NRC and the public benefit from the NRC-sponsored training. It enables the States to maintain the qualified staffs necessary to run adequate and compatible programs and assists non-Agreement States in preparing for Agreement State status. SLITP oversees the Agreement States' regulation

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* The training budget covers travel and per diem costs for students and the costs of contract instructors.

Table 2
GPA/SLITP State Training Data
FY 1975-1988

FY	Training Budget	No. of Courses	No. of Students	No. of $/Student	A/S's	No.of A/S Licenses	No. Students Per 100 Licenses
75	3/	7	131	3/	25	10,500	1.2
76	3/	6	134	3/	25	10,700	1.3
77	3/	3	213	3/	25	11,000[4]	1.9
78	3/	8	117	3/	25	11,500	1.0
79	3/	8[5]	138[5]	3/	25	11,800	1.2
80	3/	11	185	3/	26	12,000	1.5
81	345,000	12	195	1,770	26	12,500	1.6
82	540,000	21	286	1,890	26	13,000	2.2
83	390,000	16	226	1,730	26	13,200	1.7
84	530,000	17	257	2,060	27	13,100	2.0
85	600,000	18	304	1,970	27	13,800	2.2
86	471,000[6]	12	244	2,100	28	14,000[4]	1.6
87	522,000	10	187[4]	2,790	29	15,000[4]	1.2
88	565,000[7]	13	256[4]	(2,210)[4]	(30)[4]	(15,400)[4]	(1.7)[4]

NOTES:

1/ Information sources: AEC/NRC Annual Reports, 1975-1985 and SLITP Budget Data

2/ A/S=Agreement State

3/ No data available

4/ Estimated

5/ One course was cancelled due to TMI

6/ Represents a 22% reduction

7/ Contract costs represent 53%; remainder is travel cost

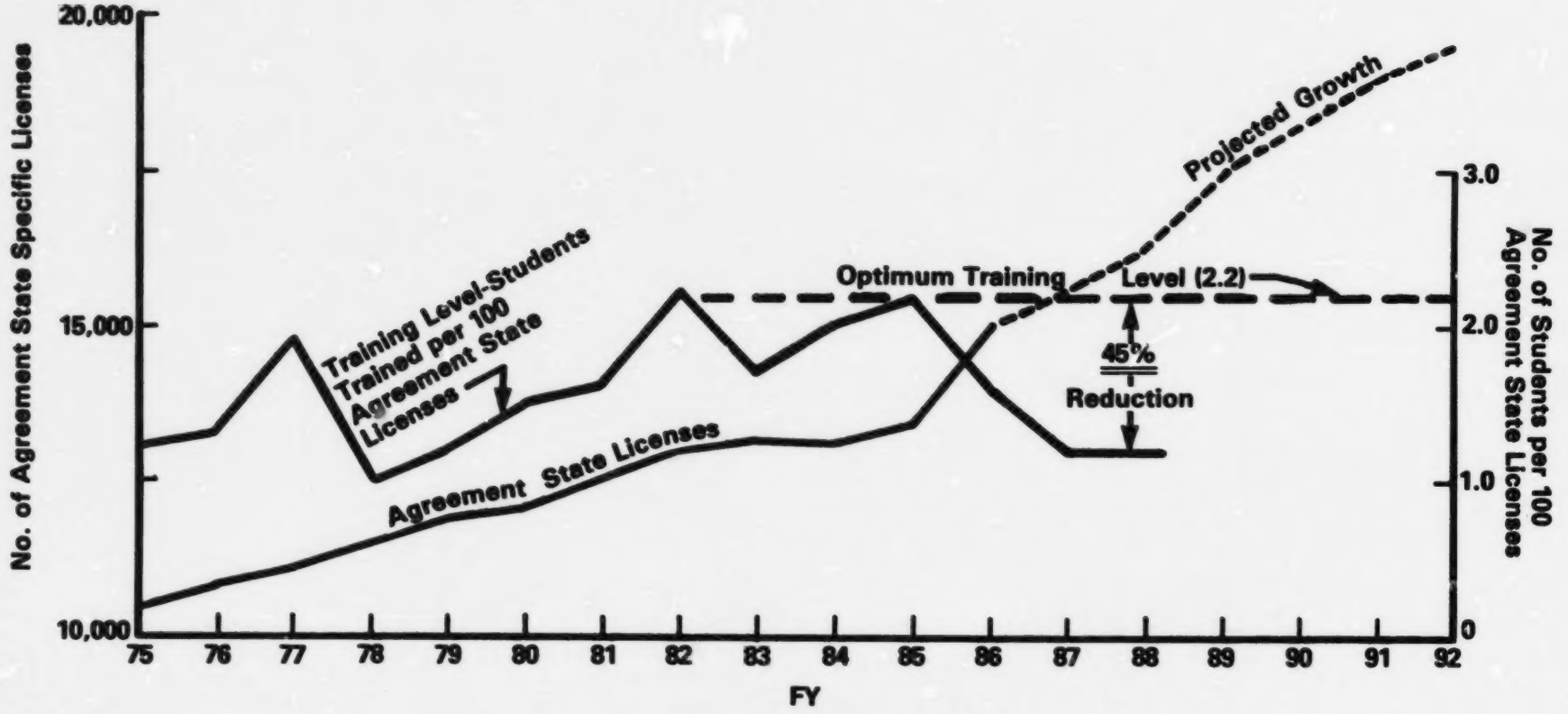

Figure 2 Agreement State License Growth & NRC Training Program

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of approximately 15,000 specific licenses with a direct NRC technical effort of 14.3 FTE, or about 0.1 FTE per 100 licenses. (This includes assistance from other NRC Offices.) As a comparison, our guidelines call for a technical staffing level for Agreement State programs of 1.0 to 1.5 FTEs per 100 licenses. NRC regulates approximately 8,100 materials licenses and NRC's direct regional materials effort (licensing, inspection, and supervision) totals 104 FTE or 1.3 FTEs per 100 licenses. Additional Headquarters effort is also utilized, but it is difficult to quantify because some of it is indirect (e.g., OGC, AEOD, RES.)* It is, nonetheless, apparent from these data that the Agreement State program is, from NRC's perspective, an efficient one. The FTE-per-100-licenses ratio for Agreement State program oversight versus that for direct NRC regulation is about 1:10. Put another way, if the Agreement State program did not exist, NRC would have to expend approximately 150 FTEs to license and inspect the licenses in the Agreement States [(1.0/100) x 15,000], compared to the 14.3 FTEs presently needed to oversee the program, a net savings of 135 FTEs.

Looking ahead for the next 5 years, we expect the present Agreement State license population will continue to grow at a pace equivalent to that of the last 10 years, and we project that Maine, Massachusetts, Michigan and Pennsylvania will become Agreement States. By FY 1992, there could be about 19,000 Agreement State licenses. Using 2.2 students per 100 licenses as a desirable level of training, we should plan to provide training to 420 students in FY 1992. Making no allowances for inflation, this indicates a training budget of $1,040,000 in FY 1992.

E. Travel

1. Travel for States

SLITP has funded invitational travel for State officials as part of the program of assisting States and addressing issues of mutual concern.

Examples of meetings and workshops where SLITP has funded travel for States over the past several years are shown in Table 3.

Funds are also provided for State personnel to attend NRC meetings whenever individual input is needed on new rulemaking issues or policy development. In addition, we have begun to have State personnel

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*The Regional FTE includes effort directed at U.S. Government licensees and certain fuel cycle licensees that are not transferable to States under Section 274b Agreements. This segment of the Regional FTE should not be included in comparison with the Agreement State effort but is not easily quantified. This segment could probably be considered roughly offset by the headquarters FTE. However, to be conservative, an effort of 1.0 FTE per 100 licenses was deemed a reasonable approximation of the NRC materials program effort.

Table 3

SLITP-FUNDED TRAVEL

Activity	Year	Events per Year	People Funded*	Constituencies Attending	Approx Total Cost to SLITP
Emergency Preparedness Workshops, Dose Assessment Seminars	83-87	1-2	25-30 (each)	State, local utilities, Federal agencies	$30K
Decommissioning Workshops	80	3	60-70 (each)	States	$100K
Seminars on LLW Alternative Disposal Concepts to Shallow Land Burial	84	1	30	States, public info groups, locals, Federal agencies	$20K
NRC/DOT Spent Nuclear Fuel Transportation Seminar	85	1	70	States, Indian Tribes	$35K
NRC/NCSL Seminar on Nuclear Issues	86	1	25	States	$18K
Meeting on LLRWPAA	86	1	25	States, Federal agencies private industry	$20K
Regional State Liaison Officers Meetings	80-87	2	20 (each)	States	$80K
National State Liaison Officers Meetings	1980, 1983, 1987	1	50	States	$90K

*In most cases, SLITP sponsors only State attendees. This number represents only those individuals whose travel was paid for by NRC, not the number of total people in attendance.

participate with SLITP reviewers in our review of Agreement State programs. This travel is funded by SLITP. State participation in our workshops and seminars enhances our ability to communicate issues and receive feedback, thereby enabling us to maintain a proactive posture.

2. Travel for NRC Staff

An annual staff travel budget of $60,000 has been adequate to meet our needs over the past several years. Our outreach program goals include personal visits with Governors and State legislators, among others, to ensure and enhance good working relationships. These interactions help to accomplish our mission of exchanging information with State and local governments and Indian Tribes.

F. Communications

1. External Communications

To develop outreach programs with our constituencies and receive information from them, intensive networking must be established and maintained. Some network methods are:

- One-on-one networking. RSLOs often attend and/or participate in local meetings when local issues under NRC purview are involved. Additionally, RSLOs may address legislative groups, testify before State committees, or meet privately with State or local officials to address concerns or answer questions. RSLOs routinely respond to requests for information from SLOs and other State officials concerning nuclear power facilities. RSLOs and Headquarters staff are being encouraged to initiate relationships with constituent groups by creating opportunities to meet with appropriate officials whenever possible.

- LLW Compacts. RSLOs and the Headquarters staff attend LLW Compact meetings. They provide the status of compact efforts to NRC offices and all interested States as needed. In addition, they give compact participants an NRC perspective and supply information about the Agency's role in the LLW process. All documents regarding NRC's responsibilities under the LLRWPAA are sent to State representatives.

- CRCPD. Headquarters and Regional staff continue to represent NRC in CRCPD through meetings and correspondence to help ensure that State and Commission programs for protection against radiation hazards are coordinated and compatible.

- Document promulgation. On an ongoing basis, SLITP sends our constituencies such documents as proposed rulemaking or policy announcements, NUREGs or other publications, compact status updates, and NRC branch technical positions.

- SLOs. Regional meetings are held with SLOs twice a year, with a national meeting once every 3 to 4 years. (This year, the national meeting was held on September 9-10, 1987 in Bethesda, Maryland.) Regular contact is maintained with the SLOs in person, by mail, and by telephone.

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- Other contacts. Our other primary contacts include Governors and their staffs, Public Utility Commissioners, emergency management officials, Department of Health officials, and radiation control program directors.

- Issue workshops. We sponsor issue workshops which are intended to clarify NRC policies and procedures and to receive information on issues of State interest.

- Agreement State reviews. We meet with the State Health Officer at the end of each Agreement State review, follow with a letter, and later send the State a copy of the full report of the review.

- Contact lists. We maintain a list of "No Significant Hazards" contacts in the States, as well as the list of "Governors' Designees Receiving Advance Notification of Nuclear Waste Shipments." These lists are updated at various times during the year; the first is provided to NRC and the latter is published in the Federal Register.

- State organizations. We spend a great deal of effort communicating with and participating in meetings of State organizations. In 1986, with the National Conference of State Legislatures, we coordinated a seminar for legislators. NCSL also recently arranged for an audio-conference for approximately eight States and NRC on LLW issues. We attend the annual meetings of such organizations as NCSL, National Governors' Association, the National Congress of American Indians and the National Association of Regulatory Utility Commissioners.

- Preliminary Notifications. After being written by the Regions, PNs go through a standard internal distribution process. Copies also go to the NRC Public Document Room, where they may be read by the public. States may also receive copies of PNs from the Regions, in individually agreed-upon cases.

- Publications. We publish a number of technical papers and other documents. They reach a wide audience in the States. Some examples are listed in Appendix D.

In conclusion, our external communications represent a major, ongoing effort.

2. Internal Communications

Awareness of State and Local government and Indian Tribe interests and functions in nuclear matters is the proactive element of the Strategic Plan to enhance Commission relationships with these government entities. Internal communication of these interests and functions must ensure that the Commission and cognizant NRC management and staff are kept fully informed in a timely manner. Specific ways that we intend to accomplish this include the following:

Periodic issue papers prepared for the Commission

Monthly Report to the Commission and EDO Staff

Briefings of Commissioners' assistants

Periodic meetings with the NRC staff to exchange information and solve problems including:

- NMSS Division of Low-Level Waste Management and Decommissioning management and staff
- NMSS Division of High-Level Waste Management
- Division of Fuel Cycle, Medical, Academic and Commercial Use Safety
- Office of the Analysis and Evaluation of Operational Data
- Interoffice working group chaired by NMSS

Counterpart meetings with Regional staff including:

- Periodic conference calls with regional staffs
- Periodic appraisals of Regional SLITP functions

Distribution to the Commission of copies of letters to Agreement States following program reviews

Distribution of reports of Agreement State program reviews to the NMSS staff

Routine distribution of summaries of incidents in Agreement States to AEOD for the Abnormal Occurrence Reports

Monthly trip and meeting reports by the Regional State Liaison Officers of State, Local and Indian Tribe activities in their regions

Issuances of Preliminary Notices of Occurrences of events in Agreement States

Issuances of periodic status reports of each State in providing disposal of LLW under the LLW Policy Amendments Act

Communication to NRR of State licensing activities for LLW disposal by utilities

Briefings of NRC staff on the Agreement State program

Participation and consultation with the Office of Research on rulemakings and petitions

Review of State legislation dealing with radiological issues

From time to time SLITP is asked to provide information on the views of States and local governments on particular issues. The RSLO is the individual in the Region to whom SLITP turns to assist in obtaining these views promptly and for follow-up where appropriate. Meetings and consultation with NRC Headquarters and Regional staffs also take place in response to specific needs either informally or through the establishment of a task force or working groups, as appropriate. NMSS and SLITP have established an improved level of communication which enables SLITP to be informed of actions that may impact States. The channels of communication must be open so that information is exchanged promptly and completely, in both directions.

G. Interaction with Other Federal Agencies

Assisting the States, local governments, and Indian Tribes in carrying out their responsibilities in the nuclear program (see Section II.C) requires the cooperative effort of several Federal agencies. Table 4 lists the individual issues and the Federal agencies involved in each.

Table 4

INTERACTION WITH OTHER FEDERAL AGENCIES

	AGENCIES							
Issues	DOE	DOT	FEMA	DOI BIA	HHS FDA CDRH	EPA	DOL OSHA	USDA
Agreement State	X	X	X	X	X	X	X	
LLW	X	X				X	X	
HLW	X	X	X	X		X		
Transportation	X	X	X	X				
Emergency Preparedness	X	X	X		X	X		X

DOE - Department of Energy
DOT - Department of Transportation
FEMA - Federal Emergency Management Agency
DOI - Department of the Interior
BIA - Bureau of Indian Affairs
HHS - Department of Health and Human Services
FDA - Food and Drug Administration
CPRH - Center for Devices and Radiological Health
EPA - Environmental Protection Agency
DOL - Department of Labor
OSHA - Occupational Safety and Health Administration
USDA - Department of Agriculture

III. SUMMARY

SLITP is launching a more active program in working with State and local governments and Indian Tribes on matters of mutual interest.

Much of what we are planning to accomplish builds on the excellent reputation and professionalism of the former Office of State Programs at Headquarters and the Regions. Original projections of a modest staffing increase, which is now included in our staffing plan, will provide the talents necessary to more effectively accomplish our mission.

New State initiatives could have significant impact on States' programs and their relationship with NRC. We must ensure that these initiatives have a positive benefit for the public health and safety, by minimizing confrontation and negativism and by offering alternatives that would benefit the States, NRC and the public alike. This particular effort will require much personal interaction.

Development of a Commission-approved policy on cooperation with the States is critical. It is critical not only to accomplish our mission and the strategic planning goals, but also in providing a visible indication of the Commission's policy both internally and externally on interacting with State and local governments and Indian Tribes. We also must keep the Commission fully informed of events, actions, issues, and initiatives by States, local governments and Indian Tribes that relate to NRC programs.

Our program also will include such items as timely information exchange and improved liaison with States and constituent groups. Our goal is to improve the quality and substance of these interactions and develop a mutual degree of confidence and trust. A highly motivated, well-qualified professional staff in Headquarters and the Regions can make it happen. The FTE level in the most recent staffing plan will provide the basic core of quality personnel we need.

IV. CONCLUSIONS AND INITIATIVES

- Conclusion

  There are currently 29 Agreement States. This program is an excellent example of successful Federal-State partnership where there are technical, administrative and resource benefits.

- Initiative

  Encourage additional States to become Agreement States.

- Conclusion

  Training of State personnel fulfills basic needs for maintaining competent radiation control programs as authorized by Section 274 of the Atomic Energy Act of 1954, as amended.

- Initiative

  Training should be supported and improved to assure continuing program effectiveness as State regulated activities grow and personnel turnover occurs.

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- Conclusion

  Various elements of the NRC regulatory program impact States. States have an interest in being involved in the development of NRC policies, regulations and technical positions.

- Initiative

  SLITP, in consultation with other NRC offices, will identify appropriate NRC initiatives where States could participate and make arrangements for State involvement. For Agreement States this may include a collaborative approach to developing regulations and regulatory guides pertaining to materials the States regulate pursuant to a Section 274b agreement.

- Conclusion

  The Agreement State program would benefit by having State personnel participate in NRC review of Agreement State radiation control programs. This initiative was discussed at the all Agreement State meeting and the Agreement States endorsed the concept.

- Initiatives

  Initiated a trial program during the review of the Nebraska program where the Arkansas Program Director participated.

  Continue a trial program of having Agreement State personnel participate in a few Agreement State program reviews.

- Conclusion

  NRC has viable constituencies in the Conference of Radiation Control Program Directors and the Governor-appointed State Liaison Officers.

- Initiative

  Encourage greater participation in these activities to assure adequate communication on significant matters.

- Conclusion

  There are a number of national organizations representing State and local governments and Indian Tribes that have an interest in nuclear safety issues. The positions taken by these national organizations on nuclear safety matters influence Federal, State and local governments and Indian Tribes' policies and programs.

- Initiative

  Enhance communication with national organizations of State and local governments and Indian Tribes to promote increased awareness and understanding of activities and initiatives relative to nuclear safety.

APPENDIX A

CONFERENCE OF RADIATION CONTROL PROGRAM DIRECTORS

The need for protecting individuals from radiation exposure can be traced back to the turn of the century, soon after the discovery of the x-ray and radioactivity. Radiation protection activities from the beginning of the century until World War II were mostly performed through voluntary actions of the radiation user. After the war, in the late 1940s, some State and local governments developed regulations to control certain radiation sources.

Before the enactment of Atomic Energy Act of 1954, nuclear energy activities in the United States were largely confined to the Federal government. The Act made it possible for private commercial firms to enter the field for the first time. Because of the hazards associated with nuclear materials, Congress determined that these activities should be regulated under a Federal licensing system to protect the health and safety of workers in the nuclear industry and the public. NRC is the Federal agency now charged with this responsibility.

Although protection of the public's health and safety has traditionally been a State responsibility, the Atomic Energy Act of 1954 did not specify such a role for the States in nuclear matters. This policy was changed in 1959 when Congress enacted Section 274 of the Act. Section 274 defines a State role and provides a statutory basis under which the Federal government can relinquish to the States portions of its regulatory authority. The 1959 amendment made it possible for the States to license and regulate byproduct material, source material, and small quantities of special nuclear material. States desiring authority to regulate were required to demonstrate that they had an adequate program, including comprehensive regulations, to protect the public health and safety.

Several States exercised this authority granted by Congress, and became "Agreement States," indicating that they had entered into an agreement with the NRC (or its predecessor agency, the Atomic Energy Commission, AEC).

By the early 1960s, many States had comprehensive radiation control programs. These programs included regulatory activities relating to diagnostic and therapeutic x-ray, radioactive materials, and other related activities.

As a result of the many and varied activities in radiation protection at the Federal, State and local levels of government, it was soon recognized that there was a need for a common forum where all these entities could address their concerns, developments, and recommendations. Thus, in 1968, the Conference of Radiation Control Program Directors, Inc. (CRCPD) was formed, with the major purpose to serve as this common forum.

As stated in the Constitution of the Conference, the objectives and purposes of the organization are to:

1. promote radiological health in all aspects and phases

2. encourage and promote cooperative enforcement programs with Federal agencies and between related enforcement agencies within each State

3. encourage the interchange of experience among radiation control programs

4. collect and make accessible to the membership of the Conference such information and data as might be of assistance to them in the proper fulfillment of their duties

5. promote and foster uniformity of radiation control laws and regulations

6. encourage and support programs which will contribute to radiation control for all

7. assist the membership in their technical work and development

8. exercise leadership with radiation control professionals and consumers in radiation control development and action

The Conference is managed by an Executive Board. This seven-member Board is composed of State or local program directors from different States. Also, on the Board, although not as voting members, are individuals from Federal agencies that have primary radiation protection functions. These individuals serve as liaisons between the Conference and their respective agencies. The administrative activities of the Conference are conducted by the Executive Secretary.

There are five classes of membership within the Conference. They are:

- Members
- Associate Members
- Emeritus Members
- Foreign Members
- Special Members

Members are those specific program directors who have primary responsibilities for the control of radiation within each of the 50 States and certain metropolitan areas.

Associate Members are staff persons employed in the radiation control programs of the States or metropolitan areas.

Emeritus Members are former members of the Conference.

Foreign Members are persons employed in a radiation control program outside the United States or a U.S. Territory.

Special Members are persons employed in a radiation control program within a U.S. Territory or under the authority of a U.S. Indian Tribe.

The major work of the Conference is accomplished through various committees and task forces. The Conference at any given time may have 40 or more groups working on specific projects. As one example, the Conference has several groups working on suggested State regulations for radiation control. These "Suggested State Regulations" are recommended by the Conference for adoption to

the various States. Adoption of these "Suggested State Regulations" promotes uniformity in radiation control among the States.

It is through support of these CRCPD committees and task forces-- especially, but not only, those developing Suggested State Regulations--that NRC fulfills the authorization and direction contained in Section 274g of the Atomic Energy Act:

> The Commission is authorized and directed to cooperate with the States in the formulation of standards for protection against hazards of radiation to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible.

Additional working committees and task forces address a variety of topics relating to radiation protection. These topics include x-ray issues such as survey data collection and analysis, activities to promote the safe and effective use of medical and dental x-ray, issuing credentials for allied health operators, and quality assurance in diagnostic x-ray.

In the nuclear area, the topics include the development of a guide for sources not under the Atomic Energy Act, such as radium, radioactive waste, emergency response planning, and recommendations on the control of radioactive material including that not covered by the Atomic Energy Act.

Other working groups address the proper measurement of both ionizing and non-ionizing radiation, and specifically the measurement of radon, and the proper measurement of exposure from personnel dosimetry devices.

There are also special groups working on proper criteria for adequate State and local programs, training and communications, ionizing radiation and radiation therapy.

The CRCPD is supported primarily, but not exclusively, by a cooperative Agreement administered by FDA but funded (for FY 1987) by FDA ($120,000), EPA ($140,000), and NRC ($110,000). Over half of these funds pay for expenses associated with travel and other support of committees and task forces and for the annual meeting and regional training conferences for State Radiation Control personnel. NRC and other Federal agencies get the benefit of the product without paying for State salaries--only travel.

A major activity of the Conference is its annual meeting. Major current radiation protection issues are addressed by the participants, who include the staff from each state and local radiation protection program, individuals from Federal agencies responsible for radiation protection, representatives from various professional associations and from industry, and individuals from the general public.

The 19th Annual CRCPD Meeting brought Harold Denton, Director, NRC Office of Governmental and Public Affairs; all five NRC Regional State Liaison Officers; all six Regional State Agreement Representatives; and a number of senior staff members from State, Local and Indian Tribe Programs (SLITP) to Boise, Idaho on May 18 through 21, 1987.

Mr. Denton addressed the 250 conference attendees on two occasions, first concerning NRC's reorganization and 1986-87 activities, and then concerning his trip to Chernobyl. He distributed copies of the March draft of NRC's Strategic Plan and invited State and conference comment.

Major topics of this 19th annual meeting were:

- Chernobyl nuclear generating station accident including global health and environmental impacts (discussed by Dr. Marvin Goldman) and lessons learned from State response to the overwhelming number of inquiries
- Perception of Risk - Discussed by Paul Slovic, noted researcher on perceived risks of nuclear power, radioactive waste, and other activities.
- Radon in homes
- Radiation-producing machines
- State Assumption of Radionuclide Emission Regulation under Clean Air Act
- Radionuclide Provisions of Safe Drinking Water Act
- Low-Level Radioactive Waste including Mixed Waste
- Naturally occurring and Accelerator produced Radioactive Material (NARM)

EPA, FDA and NRC used the occasion of the annual meeting to hold "counterpart" meetings of their respective regional representatives.

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

CHAIRMAN

October 27, 1987

The Honorable Cecil D. Andrus
Governor of Idaho
State Capitol
Boise, Idaho 83720

Dear Governor Andrus:

The Commission very much appreciates the work of the National Governors' Association, its Task Force on Nuclear Safety, and the Committee on Energy and the Environment in addressing important nuclear safety policy questions. We believe that the five recommendations of the Task Force, as adopted by the National Governors' Association at its 79th annual meeting on July 26-28, 1987, reflect a thoughtful and reasonable approach to the issues. Detailed comments on each recommendation are enclosed.

We look forward to continued, constructive exchanges of views with the National Governors' Conference and with individual state governments on issues of importance to nuclear safety.

Sincerely,

Lando W. Zech, Jr.

Enclosure:
As Stated

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ENCLOSURE

Recommendation 1: The Governors recognize the NRC as the single responsible agency for approving the design of nuclear power plants and issuing necessary construction and operating licenses.

We are pleased that the Association recognizes the Nuclear Regulatory Commission as the single focal point for safety regulation of the construction and operation of nuclear power plants. We believe that a single system of uniform national requirements is essential for the safe construction and operation of nuclear power plants.

Recommendation 2: The NRC should have the responsibility of providing information on nuclear power plant systems and operations upon request of the Governor by responding in writing within 30 days of such request.

The Commission strongly favors a close and cooperative working relationship with state governments. We will make every effort to respond as fully as possible to all requests from Governors for information on nuclear power plant safety issues within 30 days.

Recommendation 3: In the future, emergency plans should be approved by the NRC before it issues the construction permit for any new nuclear power plant.

The Commission's regulations do not now require that emergency plans be completely prepared and reviewed by the Commission before issuance of a construction permit. Instead, each applicant for a construction permit is required to include in the Preliminary Safety Analysis Report sufficient information to ensure the compatibility of proposed onsite and offsite emergency plans with facility design features, site layout, and site location with respect to such considerations as access routes, surrounding population distributions, land use, and local jurisdictional boundaries, as well as the means by which the NRC standards will be met. Although we do not now have any plans to initiate rulemaking on the subject of your recommendation, we have been giving preliminary consideration to various licensing reform concepts for future applications, including the concept of approving a final plant design prior to issuance of a construction permit. Approval of some

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preliminary emergency plans prior to construction might be compatible with this licensing reform concept. We will be pleased to offer your recommendation for public comment in any future licensing reform rulemaking that we may initiate.

Recommendation 4: In consultation with the States, NRC should develop objective criteria for the review and approval of offsite emergency response plans.

In developing the current regulations and criteria for review and approval of offsite emergency response plans, FEMA, as the lead Federal Agency in offsite emergency planning, and NRC had extensive consultation with states in regional workshops and written communications. These interactions significantly influenced the development of the emergency planning standards and guidelines. We will continue to consult with FEMA on how our regulations and guides might be improved along the lines of your recommendations. States will be offered an opportunity to comment on any modification made in this regard.

Recommendation 5: NRC should establish a mechanism to provide for timely response (within 60 days or less) to a Governor's recommendation for changes in standards relative to the safe operation of nuclear power plants within his or her State.

Consistent with our comment on Recommendation 1 that the Nuclear Regulatory Commission is the single focal point for safety regulation of the construction and operation of nuclear power plants, we would welcome a Governor's recommendation for changes in standards relative to the safe operation of nuclear reactors. The NRC would work to achieve a timely response to the Governor.

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APPENDIX C

MEMORANDA OF UNDERSTANDING

State	Type MOU: Umbrella	Type MOU: Specific/Limited MOU or Subagreement
Illinois	Umbrella 49 FR 20586 5/15/84	LLW Inspection 49 FR 27861 7/6/84
Indiana	Umbrella 43 FR 61053 12/29/78	Water Quality 43 FR 61053 12/29/78
Louisiana		Inspections in Outer Continental Shelf 32 FR 6807 5/3/67
Maryland		Joint Hearings 4/76
Nebraska		Water Quality 44 FR 49529 8/23/79 In Situ Mining 47 FR 55444 12/9/82
New York	Umbrella 43 FR 19485 5/5/78	Environmental Cooperation April 1979 Joint Hearings 41 FR 24008 6/14/76
Oregon	Umbrella 45 FR 8393 2/2/80	Proprietary Information 45 FR 8393 2/2/80 Resident Inspectors 45 FR 8393 2/2/80
Pennsylvania	Umbrella 51 FR 43487 12/2/86	LLW Inspection 8/87 52 FR 43695 11/13/87
South Carolina		Water Quality 43 FR 19485 5/5/78 Transportation Regulation at Waste Site 47 FR 23836 6/1/82
Virginia		Water Quality 43 FR 19485 5/5/78
Washington	Umbrella 43 FR 43774 9/27/78	Transportation Regulation at Waste Site 47 FR 17893 4/26/82 Public Information 48 FR 38358 8/23/83 Exchange of Information 50 FR 14782 4/15/85

APPENDIX D

EXAMPLES OF PAPERS AND PUBLICATIONS

"Beyond Defense-in-Depth: Cost and Funding of State and Local Government Radiological Emergency Response Plans and Preparedness in Support of Commercial Nuclear Power Stations," U.S. Nuclear Regulatory Commission, NUREG-0553 (October 1979).

"Compact Versus Regulatory Responsibility of States in Low-Level Waste Management," presented at Spectrum '86, sponsored by the American Nuclear Society, Niagara Falls, NY, September 14, 1986.

"Dynamic Evacuation Analyses: Independent Assessments of Evacuation Times from the Plume Exposure Pathway Emergency Planning Zones of Twelve Nuclear Power Stations," Radiological Emergency Preparedness Division, Population Preparedness Office, Federal Emergency Management Agency, FEMA-REP-3 (February 1981) (Office of State Programs staff on Presidential detail).

"Final Task Force Report on the Agreement States Program," U.S. Nuclear Regulatory Commission, NUREG-0388 (1977).

"Hazardous Scrap-Beware," U.S. Nuclear Regulatory Commission, NUREG/BR-0108 (August, 1986).

"Impacts of NRC Programs on State and Local Governments," U.S. Nuclear Regulatory Commission, NUREG-1041 (Co-editor) (1983).

"Implementation of 10 CFR 61: A Status Report on Agreement State Activities," presented at the 6th Symposium on Uranium Mill Tailings, Low-Level Waste and Hazardous Waste, Fort Collins, CO, February 1, 1984.

"Improving Regulatory Effectiveness in Federal/State Siting Actions," U.S. Nuclear Regulatory Commission, NUREG-0195 (May 1977).

"Incidents Involving NORM Contaminated Materials," presented at the 19th Annual Meeting of the Conference of Radiation Control Program Directors, Boise, ID, May 21, 1987.

"Meeting with States on the Low-Level Radioactive Waste Policy Amendments Act (LLRWPAA) of 1985," U.S. Nuclear Regulatory Commission, NUREG/CP-0085 (February 1987).

"NRC Responses to the NGA Study of the Agreement State Program," in Proceedings of the 15th Annual Conference on Radiation Control, May 16-19, 1983.

Proceedings of the State Workshop on Shallow Land Burial and Alternative Disposal Concepts, held at Bethesda, Maryland, May 2-3, 1984, U.S. Nuclear Regulatory Commission, NUREG/CP-0055 (October 1984).

"Radioactive Contamination of Manufactured Products," in Health Physics, 51:409-425 (October, 1986).

"Radioactive Contamination of Manufactured Products," presented at the 31st Annual Health Physics Society Meeting, July 2, 1986.

"Regulation of Naturally Occurring and Accelerator-Produced Radioactive Materials," U.S. Nuclear Regulatory Commission, NUREG-0301 (1977).

"Regulation of Naturally Occurring and Accelerator-Produced Radioactive Materials - An Update," U.S. Nuclear Regulatory Commission, NUREG-0976 (1984).

"State Determinations of the Need for Power," in Public Utilities Fortnightly, August 3, 1978.

"State Surveillance of Radioactive Material Transportation, Final Report," U.S. Nuclear Regulatory Commission, NUREG-1015 (February 1984).

"State Surveillance of Radioactive Material Transportation," presented at the 16th Annual National Conference of Radiation Control, Radiation Decision Making, Des Moines, Iowa, May 21-24, 1984, in Conf. Publication 384-3, pp. 549-559, (December 1984).

"The Role of the State in the Regulation of Low-Level Radioactive Waste," U.S. Nuclear Regulatory Commission, NUREG-0962 (March 1983).

"Workshop on Large Irradiator Radiation Safety," U.S. Nuclear Regulatory Commission, NUREG/CP-0073 (1986).

NRC FORM 335 (2-84) NRCM 1102, 3201, 3202

U.S. NUCLEAR REGULATORY COMMISSION

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The April 12, 1987 reorganization of the Nuclear Regulatory Commission created State, Local and Indian Tribe Programs (SLITP) within the Office of Governmental and Public Affairs. The creation of SLITP and the goals and objectives stated in the NRC Strategic Plan concerning State initiatives provided an opportunity to examine NRC's relations with State and local governments and Indian Tribes, and to refocus them, as appropriate. The result of this review is attached.

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